

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

JOHN ROBERT UMBARGER,

Petitioner,

v.

Case No. 2:09-cv-269
HON. R. ALLAN EDGAR

GERALD HOFBAUER,

Respondent.

MEMORANDUM AND ORDER

Petitioner John Robert Umbarger, a former prisoner of the Michigan Department of Corrections, brings a petition for writ of habeas corpus under 28 U.S.C. §§ 2241 - 2254 seeking release from parole and the enforcement of his original fixed parole date.

On July 26, 2012, Magistrate Judge Timothy P. Greeley submitted a report and recommendation that the habeas petition be denied and dismissed as moot. [Court Doc. No. 42]. Umbarger's parole under Michigan law was terminated on April 20, 2012. His Michigan sentence was fully discharged on April 20, 2012, and he is no longer on parole. Because Umbarger's parole under Michigan law has been terminated, he cannot obtain any habeas relief from this Court under 28 U.S.C. §§ 2241 - 2254. It is further recommended that Umbarger's "motion for immediate consideration due to change in status" [Court Doc. No. 39] likewise be denied as moot.

Umbarger has not timely filed any objections to the report and recommendation. After reviewing the record, the Court ACCEPTS and ADOPTS the Magistrate Judge's report and recommendation pursuant to 28 U.S.C. § 636(b)(1) and W.D. Mich. LCivR 72.3(b). The habeas petition is DENIED and DISMISSED WITH PREJUDICE on the ground that it is moot.

Umbarger's motion for immediate consideration due to change in status [Court Doc. No. 39] is DENIED as moot.

If petitioner Umbarger files a notice of appeal, it will be treated as an application for a certificate of appealability which shall be DENIED pursuant to 28 U.S.C. § 2253(c)(2); Fed. R. App. P. 22(b)(1); and *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) for the same reasons expressed in the report and recommendation. Reasonable jurists could not find it debatable that the habeas petition is properly dismissed as moot.

A separate judgment will enter.

SO ORDERED.

Dated: August 15, 2012.

/s/ *R. Allan Edgar*

R. ALLAN EDGAR
UNITED STATES DISTRICT JUDGE